

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA,

-against-

ORDER

03 CR 537 (RJD)

ZACKIE CAMPBELL,

Defendant.

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DEARIE, Chief Judge.

Defendant Zackie Campbell, proceeding *pro se*, moves for a sentence reduction pursuant to 18 U.S.C. § 3582(c)(2) and for assignment of counsel. For the reasons stated herein, both motions are denied.

Defendant pled guilty to one count of conspiracy to distribute and possess with intent to distribute fifty grams or more of cocaine base, in violation of 21 U.S.C. § 846, 841(a)(1), and 841(b)(1)(A)(iii). Defendant was sentenced, pursuant to § 841(b)(1)(A)(iii), to the mandatory minimum term of imprisonment of 120-months, with five-years of supervised release.

Defendant contends that he is eligible for re-sentencing under the retroactive application of the United States Sentencing Commission's recent amendment to the crack cocaine sentencing guidelines, 72 Fed.Reg. 28571-72 (2007). However, because the defendant was sentenced to the *statutory* mandatory minimum term of incarceration, see 21 U.S.C. § 841(b)(1)(A)(iii), he does not qualify for relief under § 3582(c)(2). See United States v. Ortiz, 2008 WL 709488 (S.D.N.Y. March 17, 2008); United States v. Howell, 2008 WL 687112 (S.D.W.Va. March 12, 2008); United States v. Quarles, 2008 WL 161686 (D. Kansas Jan. 16, 2008).

Because defendant's motion for sentence reduction is without substance, the Court declines his motion to appoint counsel at this time. See Hodges v. Police Officers, 802 F.2d 58 (2d Cir. 1986).

SO ORDERED.

Dated: Brooklyn, New York
May 2, 2008

s/ Judge Raymond J. Dearie

RAYMOND J. DEARIE
United States District Judge